IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

MFA.No. 993 of 2002()

OP(MV).1419/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA .
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APPELLANT: (PETITIONER IN O.P.(MV))

M.K.CHANDRAN, MUZHIKKULAM HOUSE,
KUTTICHIRA P.O., MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: (RESPONDENTS IN O.P. (MV))
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1. **P.D.PAULSON, S/O.DEVASSYKUTTY,**
   PUDUKKADAN HOUSE, G.G.ROAD,
   IRINJALAKUDA.

2. **FRANCIS, S/O.KUNJIPYLAN,**
   MADAPPILLY HOUSE, CHEMVALLOR DESOM.

3. **ORIENTAL INSURANCE COMPANY,**
   SOUTH JUNCTION, CHALAKUDY.

BY ADV. SRI.C.A.JOJO - R1
SRI.GEORGE CHERIAN (THIRUVALLA) - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No. 993 of 2002

Dated this the 5th November, 2007.

J U D G M E N T

The claimant in O.P.(M.V.) No.1419/1995, on the file of the Motor Accidents Claims Tribunal, Irinjalakuda, is the appellant. Claimant himself had filed this appeal challenging the quantum of compensation awarded to him. The appellant met with motor vehicle accident on 26.4.1995. He filed the Original Petition claiming compensation impleading owner, driver and insurer of the vehicle. The first respondent did not contest the matter. The second respondent filed a written statement disputing the negligence alleged against him and also the quantum of compensation claimed. Insurer filed a written statement contending that the quantum of compensation claimed is exorbitant. The negligence alleged was also denied. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle. It was further found that the appellant was entitled to get compensation. The Insurer was directed to pay that compensation. All those findings of the Tribunal have become final and conclusive.

2. The only question that arising for consideration is whether the appellant is entitled to get any additional compensation. Ext.A4 is the wound certificate. It shows that the appellant had sustained Deformed tempero mandible joint and four teeth lost from the upper jaw. There was bleeding from right ear. The evidence also shows that appellant had sustained fracture to mandible and mandible condylar right. It also shows that the appellant was suffering from malocculation, which means disruption of the alignment of jaws. The Tribunal awarded an amount of Rs.27,000/= as compensation. It awarded only Rs.2000/= for treatment expenses, though the injuries sustained were serious. According to me, the Tribunal ought to have atleast awarded an amount of Rs.5000/= for treatment expenses. So, the appellant is entitled to get additional compensation of Rs.3000/= for treatment expenses. For pain and suffering, the Tribunal has awarded only an amount of Rs.3000/=. Considering the nature of injuries sustained by the appellant, I am of the view that the Tribunal ought to have awarded at least an amount of Rs.7500/= on that count. So, the appellant is entitled to get additional compensation of Rs.4500/= on that count. The Tribunal has awarded only an amount of Rs.1500/= for loss of amenities. No separate amount was awarded for loss of four teeth. According to me, the Tribunal ought to have

awarded atleast an amount of Rs.8000/= for loss of amenities. So, the appellant is entitled to get additional amount of Rs.6500/= on that count. I do not find any reason to interfere with the compensation given on other counts. Hence, the appellant is entitled to get an additional compensation of Rs.14,000/=, which will carry interest at the rate of 6%.

In the result, appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.14,000/= as additional compensation from the third respondent, Insurance Company, with 6% interest from the date of petition, till the date of realisation. The third respondent is directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No. 993 of 2002

J U D G M E N T

Dated:5th November, 2007.